

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

WILLIAM E. WARD, JR.,

Plaintiff,

v.

**9:16-CV-1224
(FJS/CFH)**

**WILLIAM A. LEE, Superintendent Eastern
Correctional Facility; W. WEBBE, Captain,
Eastern Correctional Facility; J. FERRIER,
Lieutenant, Eastern Correctional Facility;
KENNETH COLAO, Deputy Superintendent
of Programs, Eastern Correctional Facility;
and U.S. ARMY/F.B.I. HAZARDOUS
DEVICE SCHOOL, REDSTONE ARSENAL,
HUNTSVILLE, ALABAMA,**

Defendants.

APPEARANCES

OF COUNSEL

WILLIAM E. WARD, JR.

99-B-1473

Woodbourne Correctional Facility
99 Prison Road
P.O. Box 1000
Woodbourne, New York 12788
Plaintiff *pro se*

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STATE ATTORNEY GENERAL**

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Webbe, Ferrier and Colao

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Attorneys for Defendant United
States Army/F.B.I Hazardous
Device School, Redstone Arsenal,
Huntsville, Alabama

CHARLES E. ROBERTS, AUSA

SCULLIN, Senior Judge

ORDER

In his amended complaint, brought pursuant to 42 U.S.C. § 1983, Plaintiff *pro se* alleges that Defendant Superintendent William A. Lee, Defendant Captain W. Webbe, Defendant Lieutenant J. Ferrier, and Defendant Deputy Superintendent of Programs Kenneth Colao¹ violated his constitutional rights under the First Amendment. *See* Dkt. No. 47 ("Amended Complaint"). Plaintiff also asserts a claim for injunctive relief pursuant to the Freedom of Information Act ("FOIA") against Defendant United States Army/F.B.I. Hazardous Device School, Redstone Arsenal, Huntsville, Alabama. *See id.*

Defendants filed motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. *See* Dkt. Nos. 75, 78. Plaintiff opposed those motions. The Court referred the motions to Magistrate Judge Hummel for a Report-Recommendation and Order pursuant to 28 U.S.C. § 636(b) and N.D.N.Y. L.R. 72.3(c).

Pending before the Court is Magistrate Judge Hummel's July 3, 2018 Report-

¹ At all relevant times, Defendants Lee, Webbe, Ferrier and Colao were employees of the New York State Department of Corrections and Community Supervision at Eastern Correctional Facility.

Recommendation and Order, in which he recommended that this Court grant Defendants' motions for summary judgment and dismiss Plaintiff's complaint in its entirety with prejudice. *See* Dkt. No. 89 at 38. The parties did not file any objections to these recommendations.

When a party does not object to a magistrate judge's recommendations, the court reviews those recommendations for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Hummel's July 3, 2018 Report-Recommendation and Order for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Hummel's July 3, 2018 Report-Recommendation and Order is **ACCEPTED in its entirety** for the reasons stated therein; and the Court hereby

ORDERS that Defendants Lee, Webbe, Ferrier and Colao's motion for summary judgment, *see* Dkt. No. 78, is **GRANTED**; and the Court further

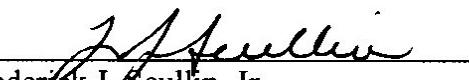
ORDERS that Defendant United States Army/F.B.I. Hazardous Device School, Redstone Arsenal, Huntsville, Alabama's motion for summary judgment, *see* Dkt. No. 75, is **GRANTED**; and the Court further

ORDERS that Plaintiff's amended complaint, *see* Dkt. No. 47, is **DISMISSED in its entirety with prejudice**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendants and close this case.

IT IS SO ORDERED.

Dated: July 25, 2018
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge